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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/090,134	02/28/2002	Kory Wade Miller	TEL118399	3621
26389	7590	12/12/2005	EXAMINER	
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC 1420 FIFTH AVENUE SUITE 2800 SEATTLE, WA 98101-2347			FOX, JAMAL A	
			ART UNIT	PAPER NUMBER
			2664	

DATE MAILED: 12/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/090,134

Applicant(s)

MILLER ET AL.

Examiner

Jamal A. Fox

Art Unit

2664

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-20 is/are allowed.
- 6) ☒ Claim(s) 1-6, 12-15 and 21-23 is/are rejected.
- 7) ☒ Claim(s) 3-11 and 24-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/2/02 & 5/16/02.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☒ Other: IDS: 2/24/03.

DETAILED ACTION

Claim Objections

1. Claims 3-6 are objected to because of the following informalities: Claim 5 is a duplicate of claim 3 and claim 6 is a duplicate of claim 4. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

3. Claims 1, 12-15 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Lamarque, III. (U.S. Patent No. 6,674,746).

Referring to claim 1, Lamarque, III discloses a method of allowing a user to selectively control voice communication over a voice over Internet protocol (VoIP) (VoIP, col. 4 lines 45-61) connection path and a public switched telephone network (PSTN) (PSTN, col. 4 lines 45-61) connection path comprising:

(a) establishing a voice communication link over either a VoIP (VoIP, col. 4 lines 45-61) connection path between a user computer (PC, col. 4 lines 45-61) and a remote telephone (telephone, col. 4 lines 45-61) or a PSTN connection path between a user telephone and the remote telephone, the established voice communication link controlled by a server (server, col. 4 lines 1-10) computer, and

(b) in response (response, col. 2 lines 30-35) to receiving, at a user computer, a request (request, col. 2 lines 30-35) from a user to change (transfer, col. 4 lines 54-61) the established voice communication link, the server computer:

(i) disconnecting (discontinued, col. 2 lines 40-47) the established voice communication link; and

(ii) creating an alternative (new path, col. 2 lines 35-47) voice communication link over the other of the VoIP (VoIP, col. 4 lines 45-61) connection path between the user computer and the remote telephone or the PSTN (PSTN, col. 4 lines 45-61) communication path between the user telephone and the remote telephone.

Referring to claim 12, Lamarque, III discloses a method of controlling a user computer included in a communication system that allows a user to selectively control voice communication over a voice over Internet protocol (VoIP) (VoIP, col. 4 lines 45-

61) connection path and a public switched telephone network (PSTN) (PSTN, col. 4 lines 45-61) connection path comprising:

causing the user computer to display a graphical user interface (graphic user interface, col. 5 lines 14-16) suitable for receiving user input allowing a user to choose between a VoIP connection path and a PSTN connection path;

in response to a user input designating a VoIP (VoIP, col. 4 lines 45-61) connection path, sending a message to a server (server, col. 4 lines 1-10 and Fig. 1 ref. sign 120 and respective portions of the spec.) computer that identifies the VoIP (VoIP, col. 4 lines 45-61) connection path as the user's choice; and

in response to a user input designating the PSTN (PSTN, col. 4 lines 45-61) connection path, sending a message to the server (server, col. 4 lines 1-10 and Fig. 1 ref. sign 120 and respective portions of the spec.) computer that identifies the PSTN (PSTN, col. 4 lines 45-61) connection path as the user's choice.

Referring to claim 13, Lamarque, III discloses the method of claim 12 wherein the graphical user interface includes a phone icon (phone icon, col. 5 lines 14-16) the color of which is dependent upon the connection path chosen by the user.

Referring to claim 14, Lamarque, III discloses the method of claim 12 including determining if the user computer is configured for both a VoIP (VoIP, col. 4 lines 45-61) connection path and a PSTN (PSTN, col. 4 lines 45-61) connection path.

Referring to claim 15, Lamarque, III discloses the method of claim 12 wherein the user computer sends a voice connection off message (release message, Figures 13-16

Art Unit: 2664

and respective portions of the spec.) to the server computer if the connection path other than the connection path chosen by the user is in use when the user makes a choice.

Referring to claim 21, Lamarque, III discloses a voice communication system having a voice over Internet protocol (VoIP) (VoIP, col. 4 lines 45-61) connection path and a public switched telephone network (PSTN) (PSTN, col. 4 lines 45-61) connection path, said voice communication system comprising:

at least one user computer (Fig. 1 ref. sign 122 and 130) for generating, in response (response, col. 2 lines 30-35) to user input, messages for controlling the creation of said VoIP (VoIP, col. 4 lines 45-61) connection path and said PSTN (PSTN, col. 4 lines 45-61) connection path and sending said messages to a server (Fig. 1 ref. sign 120 and respective portions of the spec.) computer; and

a server (Fig. 1 ref. sign 120 and respective portions of the spec.) computer for receiving the messages generated by said at least one user computer and, in accordance therewith, controlling the creation of either said VoIP (VoIP, col. 4 lines 45-61) connection path or said PSTN (PSTN, col. 4 lines 45-61) connection path.

4. Claims 1, 2 and 21 are rejected under 35 U.S.C. 102(e) as being anticipated by Belzile (U.S. Patent No. 6,253,249).

Referring to claim 1, Belzile discloses a method of allowing a user to selectively control voice communication over a voice over Internet protocol (VoIP) (VoIP, col. 6 lines 16-22), connection path and a public switched telephone network (PSTN) (PSTN, col. 6 lines 31-47 and 8 lines 8-17) connection path comprising:

(a) establishing a voice communication link over either a VoIP (VoIP, col. 6 lines 16-22) connection path between a user computer (Fig. 1 ref. signs 14 and 26 and respective portions of the spec.) and a remote telephone (Fig. 1 ref. signs 28 and 39 and respective portions of the spec.) or a PSTN (PSTN, col. 6 lines 31-47 and 8 lines 8-17) connection path between a user telephone and the remote telephone (Fig. 1 ref. signs 28 and 39 and respective portions of the spec.), the established voice communication link controlled by a server (server, col. 3 lines 45-53 and col. 4 lines 28-35) computer, and

(b) in response to receiving, at a user computer (Fig. 1 ref. signs 14 and 26 and respective portions of the spec.), a request from a user to change the established voice communication link, the server (server, col. 3 lines 45-53 and col. 4 lines 28-35) computer:

(i) disconnecting (disconnect, col. 7 lines 55-62 and col. 8 lines 8-17) the established voice communication link; and

(ii) creating an alternative (alternate, col. 7 lines 56-62) voice communication link over the other of the VoIP (VoIP, col. 6 lines 16-22) connection path between the user computer (Fig. 1 ref. signs 14 and 26 and respective portions of the spec.) and the remote telephone or the PSTN (PSTN, col. 6 lines 31-47 and 8 lines 8-17) communication path between the user telephone and the remote telephone (Fig. 1 ref. signs 28 and 39 and respective portions of the spec.).

Referring to claim 2, Belzile discloses the method of claim 1 further comprising, in response to receiving at the user computer, a request from a user to reestablish (fall

back, col. 9 lines 40-53) the established voice communication link in the event the server computer fails to create the alternative (alternatively, col. 8 lines 34-44 and col. 9 lines 40-53) voice communication link, the server computer reestablishing (fall back, col. 9 lines 40-53) the established voice communication link.

Referring to claim 21, Belzile discloses a voice communication system having a voice over Internet protocol (VoIP) connection path and a public switched telephone network (PSTN) (PSTN, col. 6 lines 31-47 and 8 lines 8-17) connection path, said voice communication system comprising:

at least one user computer (Fig. 1 ref. signs 14 and 26 and respective portions of the spec.) for generating, in response to user input, messages for controlling the creation of said VoIP (VoIP, col. 6 lines 16-22) connection path and said PSTN (PSTN, col. 6 lines 31-47 and 8 lines 8-17) connection path and sending said messages to a server (server, col. 3 lines 45-53 and col. 4 lines 28-35) computer; and

a server (server, col. 3 lines 45-53 and col. 4 lines 28-35) computer for receiving the messages generated by said at least one user computer (Fig. 1 ref. signs 14 and 26 and respective portions of the spec.) and, in accordance therewith, controlling the creation of either said VoIP (VoIP, col. 6 lines 16-22) connection path or said PSTN (PSTN, col. 6 lines 31-47 and 8 lines 8-17) connection path.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2664

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3-6, 12-15, 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lamarque, III in view of Schroeder et al.

Referring to claim 3, Lamarque, III discloses the method of claim 1, but does not explicitly teach of the user computer including a soft-phone application having a user interface for receiving user inputs. However, Schroeder et al. discloses a user computer including a soft-phone (soft phone, col. 30 lines 38-67) application having a user interface for receiving user inputs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the soft-phone application having a user interface for receiving user inputs of Schroeder et al. to the invention of Lamarque, III in order to switch or transfer the call upon request as suggested by Lamarque, III (col. 2 lines 45-47).

Referring to claim 4, Schroeder et al. discloses the method of claim 3 wherein the user interface includes a phone icon (Figures 12-15 and respective portions of the spec.) the color of which is determined by whether the active voice communication link is the establishes voice communication link or the alternative voice communication link.

Referring to claim 5, Lamarque, III discloses the method of claim 1, but does not explicitly teach of the user computer including a soft-phone application having a user interface for receiving user inputs. However, Schroeder et al. discloses a user computer including a soft-phone (soft phone, col. 30 lines 38-67) application having a user interface (user interface, col. 30 lines 38-67) for receiving user inputs. It would

have been obvious to one having ordinary skill in the art at the time the invention was made to have included the soft-phone application having a user interface for receiving user inputs of Schroeder et al. to the invention of Lamarque, III in order to switch or transfer the call upon request as suggested by Lamarque, III (col. 2 lines 45-47).

Referring to claim 6, Schroeder et al. discloses the method of claim 5 wherein the user interface includes a phone icon (Figures 12-15 and respective portions of the spec.) the color of which is determined by whether the active voice communication link is the established voice communication link or the alternative voice communication link.

Referring to claim 12, Lamarque, III discloses a method of controlling a user computer included in a communication system that allows a user to selectively control voice communication over Internet protocol (VoIP) (VoIP, col. 4 lines 45-61) connection path and a public switched telephone network (PSTN) connection path comprising:

in response to a user input designating a VoIP (VoIP, col. 4 lines 45-61) connection path, sending a message to a server (server, col. 4 lines 1-10 and Fig. 1 ref. sign 120 and respective portions of the spec.) computer that identifies the VoIP (VoIP, col. 4 lines 45-61) connection path as the user's choice; and

in response to a user input designating the PSTN (PSTN, col. 4 lines 45-61) connection path, sending a message to the server (server, col. 4 lines 1-10 and Fig. 1 ref. sign 120 and respective portions of the spec.) computer that identifies the PSTN (PSTN, col. 4 lines 45-61) connection path as the user's choice, but does not explicitly teach of

causing the user computer to display a graphical use interface suitable for receiving user input allowing a user to choose between a VoIP connection path and a PSTN connection path. However, Schroeder et al. discloses causing the user computer to display a graphical user interface (graphical user interface, col. 30 lines 38-67) suitable for receiving user input allowing a user to choose between a VoIP connection path and a PSTN connection path. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have included causing the user computer to display a graphical user interface suitable for receiving user input allowing a user to choose between a VoIP connection path and a PSTN connection path of Schroeder et al. to the invention of Lamarque, III in order to switch or transfer the call upon request as suggested by Lamarque, III (col. 2 lines 45-47).

Referring to claim 13, Schroeder et al. discloses the method of claim 12 wherein the graphical user interface includes a phone icon (Figures 12-15 and respective portions of the spec.) the color of which is dependent upon the connection path chosen by the user.

Referring to claim 14, Lamarque, III discloses the method of claim 12 including determining if the user computer is configured for both a VoIP (VoIP, col. 4 lines 45-61) connection path and a PSTN (PSTN, col. 4 lines 45-61) connection path.

Referring to claim 15, Lamarque, III discloses the method of claim 12 wherein the user computer sends a voice connection off message (release message, Figures 13-16 and respective portions of the spec.) to the server computer if the connection path other than the connection path chosen by the user is in use when the user makes a choice.

Referring to claim 22, Lamarque, III discloses the method of claim 21, but does not explicitly teach of the at least one user computer including a soft-phone application that includes a graphical user interface for receiving user input. However, Schroeder et al. discloses at least one user computer including a soft-phone (soft phone, col. 30 lines 38-67) application that includes a graphical user interface (graphical user interface, col. 30 lines 38-67) for receiving user inputs. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have included the soft-phone application that includes a graphical user interface for receiving user inputs of Schroeder et al. to the invention of Lamarque, III in order to switch or transfer the call upon request as suggested by Lamarque, III (col. 2 lines 45-47).

Referring to claim 23, Schroeder et al. discloses the system of claim 22 wherein the graphical user input includes a phone icon (Figures 12-15 and respective portions of the spec.) the color of which is dependent of the VoIP connection path and the PSTN connection path is created.

Allowable Subject Matter

7. Claims 16-20 are allowed.
8. Claims 7-11 and 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

9. **Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(571) 273-8300, (for formal communications intended for entry)

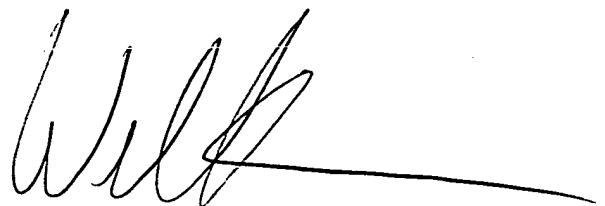
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jamal A. Fox whose telephone number is (571) 272-3143. The examiner can normally be reached on Monday-Friday 6:30 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571) 272-3134. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to 2600 Customer Service whose telephone number is (571) 272-2600.



Jamal A. Fox



WELLINGTON CHIN
SENIOR PATENT EXAMINER